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EXAMINER

WILSON, ROBERT W

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/665,349	Applicant(s) WILLIS ET AL.	
	Examiner ROBERT W. WILSON	Art Unit 2419	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 46-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 46-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Priority

1. The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994). The disclosure of the prior-filed application, Application No. 60/090,028, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. This application is a division of application no.: 09/335,947 which is now U.S. Patent No.: 6,658,021. Application no.: 09/335,947 now U.S. Patent No.: 6,658,091 claims priority back to provisional application no.: 60/090,028 which is dated June 19, 1998. The provisional application no.: 60/090,028 shows data structures for PPP over SONET or packet over SONET, ATM over SONET, and Line cards but never provides link sending or receiving channelized data tributary streams which carry both Packet over SONET and ATM over SONET in tributary streams together simultaneously. According claims 46-69 are not entitled to the benefit of the filing date of the provisional which is June 19, 1998.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claims 46-47 & 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vogel (U.S. Patent No.: 6,075,788) in view of Master (U.S. Patent No.: 6,237,029)

Referring to claim 46, Vogel teaches: A device (Figure 3)

a demultiplexer configured to receive a channelized synchronous optical network (SONET) data stream and separate channelized SONET data stream into constituent tributary data streams (Framer Block or demultiplexer receives SONET frame or channelized SONET data streams and separates the data stream into a SONET SPE or tributary per col. 5 line 25 to col. 6 line 61)

packet over SONET tributary data streams (PPP packet in SONET SPE per col. 5 line 25 to col. 6 line 61) and an asynchronous transfer mode (ATM) tributary data stream (ATM cells in SONET SPE tributary data stream per col. 5 line 25 to col. 6 line 61) and a demultiplexer with the channelized SONET data stream (Line interface streams per col. 5 line 25 to col. 6 line 61)

and a line card coupled to the demultiplexer and configured to provide the demultiplexer with the channelized SONET data stream (Line Interface is coupled to the framer or demultiplexer and provides a channelized SONET data stream per col. 5 line 25 to col. 6 line 61)

Vogel does not expressly call for: tributary data streams simultaneously

Master teaches: tributary data streams simultaneously (TU or tributary units created in parallel or simultaneously per Fig 3B)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the tributary data streams simultaneously of Master in place of the tributary data streams of Vogel in order to create SONET or SDH which can be add/drop multiplexed in compliance with the SONET or SDH standards.

In addition Vogel teaches:

Regarding claim 47, wherein the channelized SONET data stream is received over a single optical fiber (38 per Fig 3 is connected to an inherent single optical fiber and SONET per col. 3 lines 65 to col. 4 line 9 and tributaries data streams indicate channelization)

Referring to claim 59, Vogel teaches: forwarding node for directing data in a network (Figure 3) the forwarding node including:

A means for creating tributary synchronous optical network (SONET data the tributary stream including (Framer Block or means for creating; Creates STS-1 SPE of ATM cells and PPP packets which are tributary data streams per col. 5 line 25 to col. 6 line 61)

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Packet over synchronous optical network (POS) tributary data stream (PPP or packet over STS-1 SPE or SONET in a SPE or tributary stream per col. 5 line 25 to col. 6 line 61)

An asynchronous transfer mode (ATM) tributary data stream (ATM in a STS-1 SPE or ATM over SONET in a tributary stream per col. 5 line 25 to col. 6 line 61)

Means for transmitting the tributary SONET data streams as a single SONET data stream (Line Interface or means for transmitting the tributary streams provides a single channelized SONET data stream per col. 5 line 25 to col. 6 line 61)

Vogel does not expressly call for: creating at least two simultaneous tributary streams and transmitting at least two simultaneous tributary streams

Master teaches: creating at least two simultaneous tributary streams and transmitting at least two simultaneous tributary streams (TU or tributary units created in parallel or simultaneously per Fig 3B and once the tributary streams are created there are embedded in the payload and transmitted simultaneously)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add creating at least two simultaneous tributary streams and transmitting at least two simultaneous tributary streams of Master in place of the tributary data streams of Vogel in order to create SONET or SDH which can be add/drop multiplexed in compliance with the SONET or SDH standards.

4. Claims 48-58 & 60-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vogel 6,075,788) in view of Master (U.S. Patent No.: 6,237,029) further in view of Schmidt (U.S. Patent No.: 6,205,154)

Referring to claim 48, the combination of Vogel and Master teach: the device of claim 46 and wherein the tributary data stream includes a point to point protocol (SPE includes PPP per col. 6 line 39 to 61)

The combination of Vogel and Master does not expressly call for: DS tributary data

Schmidt teaches: DS tributary data (VT or T1 tributary or DS-1 tributary per col. 3 lines 33 to 67).

It would have been obvious to add the DS tributary of the Schmidt to the PPP packet to the SONET the combination of Vogel and Master in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

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Referring to claim 49, the combination of Vogel and Master teaches: the device of claim 46 and channelized SONET data streams

The combination of Vogel and Master do not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the SONET of the combination of Vogel and Master in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 50, the combination of Vogel and Master teach: the device of claim 46 and POS tributary data streams per col. 6 line 39 to 61)

The combination of Vogel and Master does not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard of Schmidt to the to the POS tributary data of the combination of Vogel and Master in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 51, the combination of Vogel and Master teach: the device of claim 46 and ATM tributary data streams per col. 5 line 49 to col. 6 line 24)

The combination of Vogel and Master do not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the to the ATM tributary data of the combination of Vogel and Master in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 52, the combination of Vogel and Master teaches the device of claim 46 and a POS tributary stream and ATM tributary stream (col.5 line 25 to col. 6 line 61)

The combination of Vogel and Master does not expressly call for: composite tributary steams that includes a POS tributary and data stream and ATM tributary data

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Schmidt teaches: composite tributary streams (Sub STS-1 signals called virtual tributaries which can be used for various types of services per col. 3 lines 33 to 67)

It would have been obvious to add the composite tributary streams of Schmidt in place of the STS SPE of the combination of Vogel and Master in order to carry the POS and ATM data simultaneously in order to more efficiently utilize the bandwidth and also be standards compliant.

Referring to claim 53, Vogel teaches: one or more devices in a data processing environment (Line Interface and Framer Block per Fig 3) comprising:

A multiplexer configured to receive tributary data streams (Framer Block or multiplexer receives both ATM cells and PPP packets which are tributary data streams per col. 5 line 25 to col. 6 line 61)

Packet over synchronous optical network (POS) tributary data stream (PPP or packet over STS-1 SPE or SONET in a SPE or tributary stream per col. 5 line 25 to col. 6 line 61)

An asynchronous transfer mode (ATM) tributary data stream (ATM in a STS-1 SPE or ATM over SONET in a tributary stream per col. 5 line 25 to col. 6 line 61)

The multiplexer being further configured to provide a tributary streams (provides STS-1 SPEs of either ATM or PPP per col. 5 line 25 to col. 6 line 61)

A line card coupled to the multiplexer and configured to receive the single channelized SONET data stream (Line Interface or Line card is coupled to the framer or multiplexer and provides a single channelized SONET data stream per col. 5 line 25 to col. 6 line 61)

Vogel does not expressly call for: simultaneously receiving tributary data streams or combining the tributary streams into single channel SONET data stream

Schmidt teaches: combining the tributary streams into single channel SONET data stream (Subchannels which are VTs can be assigned within an STS-1 to combine different services into a single channelized data stream per col. 3 lines 33 to 67).

It would have been obvious to add the VTs of the Schmidt to the STS-1 of Vogel in order to carry a combined stream of packet over SONET and ATM over SONET in a single SONET stream in order to better utilize the bandwidth as well as standards compliant in order to interoperate with legacy SONET systems.

The combination of Vogel and Schmidt do not expressly call for: simultaneously receiving tributary data streams or combining the tributary streams into single channel SONET data stream

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Master teaches: simultaneously receiving tributary data streams or combining the tributary streams into single channel SONET data stream (TU or tributary units created in parallel or simultaneously and also demultiplexed in parallel or simultaneously per Fig 3B)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the tributary data streams simultaneously of Master in place of the tributary data streams of Vogel and Schnidy in order to create SONET or SDH which can be add/drop multiplexed in compliance with the SONET or SDH standards.

Referring to claim 54, the combination of Vogel, Schmidt, and Master teach: the one or more devices of claim 53 and wherein the simultaneously received tributary data stream includes a point to point protocol (SPE includes PPP per col. 6 line 39 to 61)

Vogel does not expressly call for: DS tributary data

Schmidt teaches: DS tributary data (VT or T1 tributary or DS-1 tributary per col. 3 lines 33 to 67).

It would have been obvious to add the DS tributary of the Schmidt to the PPP packet of the combination of Vogel, Schmidt, and Master in order to be standards compliant and build a system which is interoperable with legacy SONET systems.

Referring to claim 55, the combination of Vogel, Schmidt, and Master teach: the one or more devices of claim 53 and channelized SONET data streams

Vogel and Master do not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the SONET of Vogel, Schmidt, and Master in order to be standards compliant and build a system which is interoperable with legacy SONET systems.

Referring to claim 56, the combination of Vogel, Schmidt, and Master teach: the one or more devices of claim 53 and Vogel teaches: the POS tributary data streams (per col. 6 line 39 to 61)

Vogel and Master do not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

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It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the POS tributary data of Vogel, Schmidt, and Master in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 57, the combination of Vogel, Schmidt, and Master teach: the one or more devices of claim 53 and Vogel ATM tributary data streams (per col. 5 line 49 to col. 6 line 24)

Vogel and Master do not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the ATM tributary data of the combination of Vogel, Schmidt, and Master in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 58, the combination of Vogel, Schmidt, and Master teach the one or more devices of claim 53 and Vogel teaches a POS tributary stream and ATM tributary stream (col.5 line 25 to col. 6 line 61)

Vogel and Master do not expressly call for: composite tributary steams that includes a POS tributary and data stream and ATM tributary data

Schmidt teaches: composite tributary streams (Sub STS-1 signals called virtual tributaries which can be used for various types of services per col. 3 lines 33 to 67)

It would have been obvious to add the composite tributary steams of Schmidt in place of the STS SPE of Vogel, Schmidt and Master in order to carry the POS and ATM data simultaneously in order to more efficiently utilize the bandwidth and also be standards compliant.

Referring to claim 60, the combination of Vogel and Master teaches: the forwarding node of claim 59 and wherein the tributary data steam includes a point to point protocol (SPE includes PPP per col. 6 line 39 to 61)

The combination of Vogel and Master does not expressly call for: DS tributary data

Schmidt teaches: DS tributary data (VT or T1 tributary or DS-1 tributary per col. 3 lines 33 to 67).

It would have been obvious to add the DS tributary of the Schmidt to the PPP packet of the combination of Vogel and Master in order to be standards compliant and build a system which is interoperable with legacy SONET systems.

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Referring to claim 61, the combination of Vogel and Master teaches: the forwarding node of claim 59 and channelized SONET data streams

The combination of Vogel and Master does not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the SONET of Vogel and Master in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 62, the combination of Vogel and Master teaches: the forwarding node of claim 59 and the POS tributary data streams (per col. 6 line 39 to 61)

The combination of Vogel and Master does not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the to the POS tributary data of the combination of Vogel and Master in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 63, the combination of Vogel and Master teaches: the forwarding node of claim 59 and ATM tributary data streams (per col. 5 line 49 to col. 6 line 24)

The combination of Vogel and Master does not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the to the ATM tributary data of the combination Vogel and Master in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 64, the combination of Vogel and Master teach: the forwarding node of claim 59 and wherein at least tow simultaneous data streams includes: a POS tributary stream and ATM tributary stream (col.5 line 25 to col. 6 line 61)

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The combination of Vogel and Master do not expressly call for: composite tributary streams that includes a POS tributary and data stream and ATM tributary data

Schmidt teaches: composite tributary streams (Sub STS-1 signals called virtual tributaries which can be used for various types of services per col. 3 lines 33 to 67)

It would have been obvious to add the composite tributary streams of Schmidt in place of the STS SPE of the combination of Vogel and Master in order to carry the POS and ATM data simultaneously in order to more efficiently utilize the bandwidth and also be standards compliant.

5. Claims 65-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vogel (6,075,788) further in view of Schmidt (U.S. Patent No.: 6,205,154)

Referring to Claim 65, Vogel teaches: a method for transmitting information over a fiber optic cable (Figure 3 performs the method) the method comprising:

Constructing a packet over synchronous optical network data stream (PPP packet in SONET SPE per col. 5 line 25 to col. 6 line 61)

Constructing an asynchronous transfer mode (ATM) data stream (ATM cells in SONET SPE tributary data stream per col. 5 line 25 to col. 6 line 61)

Constructing a single channelized synchronous optical network data stream (The framer creates single channelized synchronous optical data per col. 5 line 25 to col. 6 line 45)

Transmitting the single SONET data stream (Line Interface transmits the single SONET data stream per col. 5 line 25 to col. 6 line 61)

Vogel does not expressly call for: combining the POS data stream and the ATM data stream into single data stream

Schmidt teaches: combining different services into a single data stream (Sub STS-1 signals called virtual tributaries which can be used for various types of services per col. 3 lines 33 to 67)

It would have been obvious to add the composite tributary streams of Schmidt in place of the STS SPE of Vogel in order to carry the POS and ATM data simultaneously in order to more efficiently utilize the bandwidth and also be standards compliant.

In addition Vogel teaches:

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Regarding claim 66, wherein the single data stream is transmitted over a single optical fiber (38 per Fig 3 transmits to an inherent single optical fiber)

Referring to claim 67, the combination of Vogel and Schmidt teach: the device of claim 65 and Vogel teaches: channelized SONET data streams per col. 5 line 24 to col. 6 line 61)

Vogel does not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the SONET of Vogel and Schmidt in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 68, the combination of Vogel and Schmidt teaches: the device of claim 65 and Vogel teaches: POS tributary data streams per col. 6 line 39 to 61)

Vogel does not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the to the POS tributary data of the combination of Vogel and Schmidt in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 69, the combination of Vogel and Schmidt teach: the device of claim 65 and Vogel teaches: ATM tributary data streams per col. 5 line 49 to col. 6 line 24)

Vogel does not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the to the ATM tributary data of the combination of Vogel and Schmidt in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Double Patenting

6. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and

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useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 46-47 & 59 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1,3,5, & 8 of U.S. Patent No. 6,658,021 in view of Master (U.S. Patent No.: 6,237,029) further in view of Vogel (U.S. Patent No.: 6,075,788)

Referring to claim 46, U.S. Patent 6,658,021 teaches: A device (Forwarding node per claim 1) comprising:

a demultiplexer configured to receive a channelized synchronous optical network (SONET) data stream and separate channelized SONET data stream into constituent tributary data streams (The

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decapsulation logic delineates or separates into multiple formats (tributaries of constituent tributary data per claim 1) the tributary streams including:

packet over SONET tributary data streams (Claim 5 or Claim 8) and an asynchronous transfer mode (ATM) tributary data stream (Claim 3)

U.S. Patent No.: 6,658, 021 does not expressly call for: tributary data streams simultaneously or a line card coupled to a demultiplexer

Master teaches: tributary data streams simultaneously (TU or tributary units created in parallel or simultaneously per Fig 3B)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the tributary data streams simultaneously of Master in place of the constituent tributary data streams of U.S. Patent No.: 6,658,021 in order to create SONET or SDH which can be add/drop multiplexed in compliance with the SONET or SDH standards.

The combination of U.S. Patent No.: 6,658,021 and Master do not expressly call for: line card coupled to a demultiplexer

Vogel teaches: line card coupled to a demultiplexer (Line Interface or line card coupled to the Framer or demultiplexer per col.5 line 25 to col. 6 line 61)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the line card of Vogel to decapsulation logic of the combination of U.S. Patent No.: 6,658,021 and Master which performs demultiplexing in order to build a system in which the optical to electrical converter can be replaced separately from the demultiplexer in the event of a failure of either component thus making the repair of the unit easier.

Referring to claim 47, the combination of U.S. Patent No.: 6,658, 021, Master, and Vogel teach: the device of claim 46 and channelized data stream.

The combination of U.S. Patent No.: 6,658,021 and Master do not expressly call for: SONET Single optical fiber.

Vogel teaches: single optical fiber (inherent in Figure 3)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the single optical fiber of Vogel to the device of the combination U.S. Patent 6,658,021, Master, and Vogel in order to send data via SONET to another node.

Referring to Claim 59, U.S. Patent 6,658,021 teaches: a forwarding node for directing data in a data network the forwarding node (Forwarding node per claim 1) including:

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Means for creating tributary synchronous optical network (SONET) data streams the tributary SONET data streams (Decapsulation logic per claim 1)

A packet over synchronous optical network (POS) tributary data streams (claim 5 or claim 8)

An asynchronous transfer mode (ATM) tributary data stream (claim 4)

And means for transmitting the tributary SONET data stream as a single SONET data stream (input port for receiving would be obvious to have an transmit port for transmitting)

U.S. Patent 6,658,021 does not expressly call for: creating at least two simultaneous tributary streams or means for transmitting transmitting at least two simultaneous tributary streams

Master teaches: creating at least two simultaneous tributary streams and transmitting at least two simultaneous tributary streams (TU or tributary units created in parallel or simultaneously per Fig 3B and once the tributary streams are created there are embedded in the payload and transmitted simultaneously)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add creating at least two simultaneous tributary streams and transmitting at least two simultaneous tributary streams of Master in place of the tributary data streams of U.S. Patent No.: 6,658,021 in order to create SONET or SDH which can be add/drop multiplexed in compliance with the SONET or SDH standards.

The combination of U.S. Patent No.: 6,658,021 and Master do not expressly call for: means for transmitting

Vogel teaches: means for transmitting (Line Interface per Fig 3)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the line card of Vogel to decapsulation logic of the combination of U.S. Patent No.: 6,658,021 and Master which performs demultiplexing in order to build a system in which the optical to electrical converter can be replaced separately from the demultiplexer in the event of a failure of either component thus making the repair of the unit easier.

9. Claims 48-58 & 60-64 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 3, 5, & 8 of U.S. Patent No. 6,658,021 in view of Master (U.S. Patent No.: 6,237,029) in view of Vogel (6,075,788) further in view of Schmidt (U.S. Patent No.: 6,205,154)

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Referring to claim 48, the combination U.S. Patent No.: 6,658,021, Master, and Vogel teach: the device of claim 46 and Vogel teaches: wherein the tributary data stream includes a point to point protocol (SPE includes PPP per col. 6 line 39 to 61)

The combination of U.S. Patent No.: 6,658,021, Master, and Vogel do not expressly call for: DS tributary data

Schmidt teaches: DS tributary data (VT or T1 tributary or DS-1 tributary per col. 3 lines 33 to 67).

It would have been obvious to add the DS tributary of the Schmidt to the PPP packet to the SONET of the combination of U.S. Patent No.: 6,658,021, Master, and Vogel in order to be standards compliant and build a system which is interoperable with legacy SONET systems.

Referring to claim 49, the combination of U.S. Patent No.: 6,658,021, Master, and Vogel teach: the device of claim 46 and channelized SONET data streams

The combination of U.S. Patent No.: 6,658,021, Master, and Vogel do not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the SONET of the combination of U.S. Patent No.: 6,658,021, Master, and Vogel in order to be standards compliant and build a system which is interoperable with legacy SONET systems.

Referring to claim 50, the combination of U.S. Patent No.: 6,658,021, Master, and Vogel teach: the device of claim 46 and POS tributary data streams per col. 6 line 39 to 61)

The combination of U.S. Patent No.: 6,658,021, Master, and Vogel do not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the POS tributary data of the combination of U.S. Patent No.: 6,658,021, Master, and Vogel in order to be standards compliant and build a system which is interoperable with legacy SONET systems.

Referring to claim 51, the combination of U.S. Patent No.: 6,658,021, Master, and Vogel teach: the device of claim 46 and ATM tributary data streams per col. 5 line 49 to col. 6 line 24)

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The combination of U.S. Patent No.: 6,658,021, Master, and Vogel do not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the to the ATM tributary data of the combination of U.S. Patent No.: 6,658,021, Master, and Vogel in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 52, the combination of U.S. Patent No.: 6,658,021, Master, and Vogel teach: the device of claim 46 and Vogel teaches: a POS tributary stream and ATM tributary stream (col.5 line 25 to col. 6 line 61)

The combination of U.S. Patent No.: 6,658,021, Master, and Vogel do not expressly call for: composite tributary streams that includes a POS tributary and data stream and ATM tributary data

Schmidt teaches: composite tributary streams (Sub STS-1 signals called virtual tributaries which can be used for various types of services per col. 3 lines 33 to 67)

It would have been obvious to add the composite tributary streams of Schmidt in place of the STS SPE of the combination of U.S. Patent No.: 6,658,021, Master, and Vogel in order to carry the POS and ATM data simultaneously in order to more efficiently utilize the bandwidth and also be standards compliant.

Referring to claim 53, U.S. Patent 6,658,021 teaches: one or more devices in a data processing environment (Forwarding node per claim 1) comprising:

A multiplexer configured to receive tributary data streams (The decapsulation logic or multiplexer delineates or separates into multiple formats (tributaries of constituent tributary data per claim 1)

Packet over synchronous optical network (POS) tributary data stream (Claim 5 or Claim 8)

An asynchronous transfer mode (ATM) tributary data stream (Claim 3)

The multiplexer being further configured to combine the tributary data streams in to a single channelized synchronous optical network (SONET) data stream (Decapsulation Logic combines tributary data streams are inherently part of SONET standard per claim 1)

U.S. Patent No.: 6,658, 021 does not expressly call for: simultaneously receiving tributary data streams or combining the tributary streams into single channel SONET data stream or a line card

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coupled to a demultiplexer or combining the tributary data streams into single channel SONET data stream

Schmidt teaches: combining the tributary streams into single channel SONET data stream (Subchannels which are VTs can be assigned within an STS-1 to combine different services into a single channelized data stream per col. 3 lines 33 to 67).

It would have been obvious to add the VTs of the Schmidt to tributary streams of U.S. Patent No.: 6,658,021 in order to carry a combined stream of packet over SONET and ATM over SONET in a single SONET stream in order to better utilize the bandwidth as well as standards compliant in order to interoperate with legacy SONET systems.

The combination of U.S. Patent No.: 6,658,021 and Schmidt do not expressly call for: line card coupled to a demultiplexer

Vogel teaches: line card coupled to a demultiplexer (Line Interface or line card coupled to the Framer or demultiplexer per col.5 line 25 to col. 6 line 61)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the line card of Vogel to decapsulation logic the combination U.S. Patent No.: 6,658,021 and Schmidt in order to carry a combined stream of packet over SONET and ATM over SONET in a single SONET stream in order to better utilize the bandwidth as well as standards compliant in order to interoperate with legacy SONET systems.

Referring to claim 54, the combination of U.S. Patent No.: 6,658,021, Master, Vogel, and Schmidt teach: the one or more devices of claim 53 and wherein the simultaneously received tributary data stream includes a point to point protocol (SPE includes PPP per col. 6 line 39 to 61)

The combination of U.S. Patent No.: 6,658,021, Master, and Vogel do not expressly call for: DS tributary data

Schmidt teaches: DS tributary data (VT or T1 tributary or DS-1 tributary per col. 3 lines 33 to 67).

It would have been obvious to add the DS tributary of the Schmidt to the PPP packet of the combination of U.S. Patent No.: 6,658,021, Master, Vogel, and Schmidt in order to be standards compliant and build a system which is interoperable with legacy SONET systems.

Referring to claim 55, the combination of U.S. Patent No.: 6,658,021, Master, Vogel, and Schmidt teach: the one or more devices of claim 53 and channelized SONET data streams

The combination of U.S. Patent No.: 6,658,021, Master, and Vogel not expressly call for: optical carry rate in accordance with the SONET standard.

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Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the SONET of U.S. Patent No.: 6,658,021, Vogel, and Schmidt in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 56, the combination of U.S. Patent No.: 6,658,021, Master, Vogel, and Schmidt teach: the one or more devices of claim 53 and Vogel teaches: the POS tributary data streams (per col. 6 line 39 to 61)

The combination of U.S. Patent No.: 6,658,021, Master, and Vogel not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the to the POS tributary data of U.S. Patent No.: 6,658,021, Master, Vogel, and Schmidt in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 57, the combination of U.S. Patent No.: 6,658,021, Master, Vogel, and Schmidt teach: the one or more devices of claim 53 and Vogel ATM tributary data streams (per col. 5 line 49 to col. 6 line 24)

U.S. Patent No.: 6,658,021, Master, and Vogel do not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the to the ATM tributary data of the combination of U.S. Patent No.: 6,658,021, Master, Vogel, and Schmidt in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 58, the combination U.S. Patent No.: 6,658,021, Master, Vogel, and Schmidt teach the one or more devices of claim 53 and the simultaneously received tributary streams and Vogel teaches a POS tributary stream and ATM tributary stream (col.5 line 25 to col. 6 line 61)

The combination of U.S. Patent No.: 6,658,021, Master, and Vogel does not expressly call for: composite tributary steams that includes a POS tributary and data stream and ATM tributary data

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Schmidt teaches: composite tributary streams (Sub STS-1 signals called virtual tributaries which can be used for various types of services per col. 3 lines 33 to 67)

It would have been obvious to add the composite tributary streams of Schmidt in place of the STS SPE of U.S. Patent No.: 6,658,021, Master, and Vogel in order to carry the POS and ATM data simultaneously in order to more efficiently utilize the bandwidth and also be standards compliant.

Referring to claim 60, the combination of U.S. Patent 6,658,021, Master, and Vogel teaches: the forwarding node of claim 59 and wherein the at least two simultaneous tributary data stream includes a point to point protocol (SPE includes PPP per col. 6 line 39 to 61)

U.S. Patent 6,658,021, Master, and Vogel do not expressly call for: DS tributary data

Schmidt teaches: DS tributary data (VT or T1 tributary or DS-1 tributary per col. 3 lines 33 to 67).

It would have been obvious to add the DS tributary of the Schmidt to the PPP packet of the combination of U.S. Patent 6,658,021, Master, and Vogel in order to be standards compliant and build a system which is interoperable with legacy SONET systems.

Referring to claim 61, the combination of U.S. Patent 6,658,021, Master, and Vogel teach: the forwarding node of claim 59 and channelized SONET data streams

The combination of U.S. Patent 6,658,021, Master, and Vogel do not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the optical carry rate of the SONET standard Schmidt to the SONET of the combination of U.S. Patent 6,658,021, Master, and Vogel in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 62, the combination of U.S. Patent 6,658,021, Master, and Vogel teaches: the forwarding node of claim 59 and the POS tributary data streams (per col. 6 line 39 to 61)

The combination of U.S. Patent 6,658,021, Master, and Vogel do not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

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It would have been obvious to one of ordinary skill in the art at the time of the invention to add the optical carry rate of the SONET standard Schmidt to the to the POS tributary data of the combination of U.S. Patent 6,658,021, Master, and Vogel in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 63, the combination of U.S. Patent 6,658,021, Master, and Vogel teach: the forwarding node of claim 59 and ATM tributary data streams (per col. 5 line 49 to col. 6 line 24)

The combination of U.S. Patent 6,658,021, Master, and Vogel do not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the optical carry rate of the SONET standard Schmidt to the to the ATM tributary data of the combination of U.S. Patent 6,658,021, Master, and Vogel in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 64, the combination of U.S. Patent 6,658,021 and Vogel teach the forwarding node of claim 59 and a POS tributary stream and ATM tributary stream (col.5 line 25 to col. 6 line 61)

The combination of U.S. Patent 6,658,021, Master, and Vogel do not expressly call for: composite tributary steams that includes a POS tributary and data stream and ATM tributary data

Schmidt teaches: composite tributary streams (Sub STS-1 signals called virtual tributaries which can be used for various types of services per col. 3 lines 33 to 67)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the composite tributary steams of Schmidt in place of the STS SPE of the combination of U.S. Patent 6,658,021, Master, and Vogel in order to carry the POS and ATM data simultaneously in order to more efficiently utilize the bandwidth and also be standards compliant.

10. Claims 65-69 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 3, 5, & 8 of U.S. Patent No. 6,658, in view of Vogel (6,075,788) further in view of Schmidt (U.S. Patent No.: 6,205,154)

Referring to Claim 65, U.S. Patent 6,658,021 teaches: method for transmitting information over a fiber optic cable (Forwarding node perform the method) the method comprising:

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Constructing a packet over synchronous optical network data stream (decapsulation logic per claim 1)

Constructing an asynchronous transfer mode (ATM) data stream (decapsulation logic per claim 1)

Combining a single channelized synchronous optical network (SONET) data stream (Claim 1)

U.S. Patent No.: 6,658,021 does not expressly call for: combining the POS data stream and the ATM data stream or transmitting the single data stream.

Vogel teaches: line card coupled to a demultiplexer (Line Interface or line card coupled to the Framer or demultiplexer per col.5 line 25 to col. 6 line 61)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the line card of Vogel to decapsulation logic which performs demultiplexing in order to build a system in which the optical to electrical converter can be replaced separately from the demultiplexer in the event of a failure of either component thus making the repair of the unit easier.

The combination of U.S. Patent No.: 6,658,021 and Vogel do not expressly call for: combining the POS data stream and the ATM data stream or transmitting the single data stream.

Schmidt teaches: combining different services into a single data stream (Sub STS-1 signals called virtual tributaries which can be used for various types of services per col. 3 lines 33 to 67)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the composite tributary streams of Schmidt in place of the STS SPE of Vogel and U.S. Patent No.: 6,658,021 in order to carry the POS and ATM data simultaneously in order to more efficiently utilize the bandwidth and also be standards compliant.

In addition Vogel teaches:

Regarding claim 66, wherein the single data stream is transmitted over a single optical fiber (38 per Fig 3 transmits to an inherent single optical fiber)

Referring to claim 67, the combination of U.S. Patent No.: 6,658,021, Vogel, and Schmidt teach: the device of claim 65 and Vogel teaches: channelized SONET data streams per col. 5 line 24 to col. 6 line 61)

The combination of U.S. Patent No.: 6,658,021 and Vogel do not expressly call for: optical carry rate in accordance with the SONET standard.

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Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the optical carry rate of the SONET standard Schmidt to the SONET of combining the POS data stream and the ATM data stream or transmitting the single data stream of the combination of U.S. Patent No.: 6,658,021, Vogel, and Schmidt in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 68, the combination of U.S. Patent No.: 6,658,021, Vogel, and Schmidt teach: the device of claim 65 and Vogel teaches: POS tributary data streams per col. 6 line 39 to 61)

The combination of U.S. Patent No.: 6,658,021 and Vogel do not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the optical carry rate of the SONET standard Schmidt to the to the POS tributary data of the combination of U.S. Patent No.: 6,658,021, Vogel, and Schmidt in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 69, the combination of U.S. Patent No.: 6,658,021, Vogel, and Schmidt teach: the device of claim 65 and Vogel teaches: ATM tributary data streams per col. 5 line 49 to col. 6 line 24)

U.S. Patent No.: 6,658,021 and Vogel do not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the optical carry rate of the SONET standard Schmidt to the to the ATM tributary data of the combination of U.S. Patent No.: 6,658,021, Vogel, and Schmidt in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Response to Arguments

11. Applicant's arguments with respect to claims 46-69 have been considered but are moot in view of the new ground(s) of rejection.

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Priority date

The examiner respectfully disagrees with the applicant's argument that the condition for receiving benefit of an earlier filing date under 35U.S.C 120 has been met because numerous pages of the provisional application 60/090,012 disclose multiplexing. The applicant has failed to provide cite specific paragraphs which show that the applicant had possession of all independent claims and dependent claim material; consequently, applicant's argument is not persuasive.

Applicant's argument relative to 103 rejection of claims 46-64.

The applicant added a new claim limitation of "tributary data streams simultaneously". Please refer to the rejection above which is based upon a new grounds of rejection for details.

Applicant's argument relative to 103 rejection of claims 65-69

The examiner respectfully disagrees with the applicant's argument that the combination of references do not teach: combining the POS data stream and the ATM stream into a single data stream.

Vogel teaches: POS data stream (PPP directly into SONET SPE per col. 4 lines 3 to 8) and ATM streams into SONET (ATM cells into SONET SPE per col. 4 lines 3 to 8)

Vogel does not expressly call for: combining the POS data stream and the ATM data stream into single data stream

Schmidt teaches: combining different services into a single data stream (Sub STS-1 signals called virtual tributaries which can be used for various types of services per col. 3 lines 33 to 67)

It would have been obvious to add the composite tributary streams of Schmidt in place of the STS SPE of Vogel in order to carry the POS and ATM data simultaneously in order to more efficiently utilize the bandwidth and also be standards compliant.

Applicant's argument relative to obvious double patenting rejection of claims 46-64.

The applicant added a new claim limitation of "tributary data streams simultaneously". Please refer to the rejection above which is based upon a new group of rejection for details.

Applicant's argument relative to obvious double patenting rejection of claims 65-69

The examiner respectfully disagrees with the applicant's argument that the combination of references do not teach: combining the POS data stream and the ATM stream into a single data stream.

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U.S. Patent 6,658,021 teaches: method for transmitting information over a fiber optic cable (Forwarding node perform the method) the method comprising:

Constructing a packet over synchronous optical network data stream (decapsulation logic per claim 1)

Constructing an asynchronous transfer mode (ATM) data stream (decapsulation logic per claim 1)

Combining a single channelized synchronous optical network (SONET) data stream (Claim 1)

U.S. Patent No.: 6,658,021 does not expressly call for: combining the POS data stream and the ATM data stream or transmitting the single data stream.

Vogel teaches: line card coupled to a demultiplexer (Line Interface or line card coupled to the Framer or demultiplexer per col.5 line 25 to col. 6 line 61)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the line card of Vogel to decapsulation logic which performs demultiplexing in order to build a system in which the optical to electrical converter can be replaced separately from the demultiplexer in the event of a failure of either component thus making the repair of the unit easier.

The combination of U.S. Patent No.: 6,658,021 and Vogel do not expressly call for: combining the POS data stream and the ATM data stream or transmitting the single data stream.

Schmidt teaches: combining different services into a single data stream (Sub STS-1 signals called virtual tributaries which can be used for various types of services per col. 3 lines 33 to 67)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the composite tributary streams of Schmidt in place of the STS SPE of Vogel and U.S. Patent No.: 6,658,021 in order to carry the POS and ATM data simultaneously in order to more efficiently utilize the bandwidth and also be standards compliant.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT W. WILSON whose telephone number is (571)272-3075. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on 571/272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert W Wilson/
Primary Examiner, Art Unit 2419

RWW
10/20/08